

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUDGE BRISCK # 2

10 CIV 5320

SAM Case.

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

Joseph T. Smith,
C.O. J. Stefanik
C.O. R. Cutler
C.O. Cane
C.O. Keys
Sgt. Hube
Inmate E. Williams

Agents/Employees

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

JUL 19 2010

LAWRENCE K. BASMAN, CLERK
ALBANY

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff

Name Sam Case
ID # 09B2295
Current Institution Clinton Annex
Address P.O. Box 2002
Dannemora, New York 12929

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1

Name Joseph T. Smith, Shield # _____
 Where Currently Employed Shawangunk
 Address Correctional facility
Po. Box 700-200 Quirk Road Wallkill New York 12589-0700

Defendant No. 2

Name J. Stefani K Shield # _____
 Where Currently Employed Shawangunk
 Address Correctional facility Po. Box
700-200 Quirk Road Wallkill, New York, 12589-0700

Defendant No. 3

Name K Cutler Shield # _____
 Where Currently Employed Shawangunk
 Address Correctional facility
Po. Box 700-200 Quirk Road Wallkill, New York 12589-0700

Defendant No. 4

Name Cane Shield # _____
 Where Currently Employed Shawangunk
 Address Correctional facility
Po. Box 700-200 Quirk Road Wallkill, New York 12589-0700

Defendant No. 5

Name Sgt Aube Shield # _____
 Where Currently Employed Shawangunk
 Address Correctional facility
Po. Box 700-200 Quirk Road Wallkill New York 12589-0700

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

A. In what institution did the events giving rise to your claim(s) occur? Shawangunk
Correctional facility

B. Where in the institution did the events giving rise to your claim(s) occur? in The
B-2 housing unit storage Room.

C. What date and approximate time did the events giving rise to your claim(s) occur? 3/14/10
1:00 PM

D. Facts:

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

Sexual assaults committed against me by another inmate. He made me have oral sex with him against my will. He physically threatened me and said, "that he would fucking kill me because he had nothing to lose." Said inmate is known to have Aids. I informed officers on the facility and they did nothing for me. I also put grievances in and they didn't answer them. They also never gave me the proper medical treatment. Both me and said inmate were participants in the S.O.C.T.P. in Shawangunk. Another inmate testified against my assailant they he assaulted him too. My assailant was in the S.O.C.T.P. for raping his bunkie in his last facility. Inmate E. Williams is the inmate who assaulted me. This happened around February 2nd 2010. The threats and sexual assaults continued until I signed out of the program March 8, 2010. I signed out due to the fact that the C.O.'s would not protect me from the threats and assaults.

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received. Just mental and emotional trauma which they refused to give me treatment for.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).
Shawangunk Correctional Facility

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?
 Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?
 Yes ☒ No ☐ Do Not Know ☐

If YES, which claim(s)? All

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?
 Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?
at Shawangunk Correctional Facility

1. Which claim(s) in this complaint did you grieve? My being threatened and sexually assaulted, and the officers ignoring it.

2. What was the result, if any? They ignored my grievance.

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. I wrote to Commissioner Fischer in Albany, and I never got a response. I also wrote to the Superintendent of Shawangunk, Joseph T. Smith. I also wrote to the grievance officer.

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here:

N/A

2. If you did not file a grievance but informed any officials of your claim, state who you

informed, when and how, and their response, if any: _____

N/A

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. _____

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. **Relief:**

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). I am suing in the amount of 5,000,000 for emotional, mental and physical pain and suffering. Also that I had to sign out of the program, which interrupted my Sex offender treatment.

On
these
claims

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☒ No ☐

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff Same CaseDefendants State of New York

2. Court (if federal court, name the district; if state court, name the county) U.S. Court of Claims, Walter County

3. Docket or Index number N40018051, Claim #118172

4. Name of Judge assigned to your case Richard E. Sise

5. Approximate date of filing lawsuit March 15, 2010

6. Is the case still pending? Yes ☒ No ☐

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) ST.11 Pending

On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ☐ No ☒

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff _____

Defendants _____

2. Court (if federal court, name the district; if state court, name the county) _____

3. Docket or Index number _____

4. Name of Judge assigned to your case _____

5. Approximate date of filing lawsuit _____

6. Is the case still pending? Yes ☐ No ☐

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) I. Put a notice of
State of New York Court of Claims.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 6 day of JUNE, 2010

Signature of Plaintiff

Inmate Number

Institution Address

Am case
09 B 2295
CLINTON CORRECTIONAL FACILITY
P.O. BOX 2000
DANNE MORA NY 12929

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 1 day of JUNE, 2010, I am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Am case